

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

MARC PIERRE HALL,	:	4:06-CV-2005
Petitioner	:	(Judge McClure)
v.	:	(Magistrate Judge Smyser)
WARDEN WILLIAMSON and	:	
ALBERTO GONZALES,	:	
Respondents	:	

ORDER

January 5, 2007

BACKGROUND:

On October 12, 2006 the petitioner filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241.

The petitioner did not pay the filing fee or file an application to proceed *in forma pauperis*. By an order dated October 17, 2006, the petitioner was ordered to either pay the \$5.00 filing fee or file an application to proceed *in forma pauperis* on or before November 17, 2006.

The petitioner did not pay the filing fee or file an application to proceed *in forma pauperis*. Nor did the petitioner request an extension of time to do so.

By an order dated November 29, 2006, the undersigned judge dismissed this action without prejudice for failure of the petitioner to pay the filing fee or file an application to proceed *in forma pauperis*.

On December 1, 2006, the petitioner filed a motion to expand the record, and the case was initially assigned to United States Magistrate Judge J. Andrew Smyser.

On December 4, 2006, the petitioner filed a motion to clarify in which he asks if his petition for a writ of habeas corpus is pending before the court. Furthermore, on December 6, 2006, petitioner filed a motion to amend the judgment contending that he had paid the \$5.00 filing fee in this case and requesting that the court reinstate the action. On December 6, 2006, petitioner filed a motion to expand the record in connection with his motion to amend the judgment.

On December 15, 2006, Magistrate Judge Smyser filed his report and recommendation in which he reported that there was no record of the petitioner's having paid the filing fee in this case. Moreover, on December 4, 2006, the petitioner did pay the \$5.00 filing fee in connection with a separate habeas case he filed in this court - *Hall v. Williamson*, 4:06-CV-02240 (M.D. PA).

Magistrate Judge Smyser recommended that the petitioner's motion to

amend the judgment and the petitioner's motion to expand the record in connection with his motion to amend the judgment be denied. It was further recommended that the petitioner's motion to clarify be granted to the extent that the court has clarified that this case has been closed. It is further recommended that the petitioner's motion to expand the record be denied.

No objections have been filed by the petitioner, although petitioner did file a letter on December 21, 2006 again seeking the status of the case and requesting a reinstatement of the case upon locating the payment received from his mother. Petitioner has also sought the status of a separate § 2241 habeas petition docketed to No. 4:06-CV-2240.

The court agrees with the report and recommendation for all the reasons set forth therein. Petitioner's \$5.00 filing fee was properly allocated to the case docketed to 4:06-CV-02240, as directed.

NOW, THEREFORE, IT IS ORDERED THAT:

1. The report and recommendation of United States Magistrate Judge J. Andrew Smyser (rec. doc. no. 12, filed December 15, 2006) is approved and adopted in full for the reasons set forth therein.
2. Petitioner's motion to amend the judgment (rec. doc. no. 10) is denied.

3. Petitioner's motion to expand the record in connection with his motion to amend the judgment (rec. doc. no. 11) is denied.

4. Petitioner's motion to clarify (rec. doc. no. 9) is granted to the extent that the court hereby clarifies that this case has been closed.

5. Petitioner's motion to expand the record (rec. doc. no. 8) is denied.

6. The case remains closed.

7. The clerk is directed to forward to petitioner a docket sheet in the case of *Hall v. Williamson*, 4:06-CV-2240.

s/ James F. McClure, Jr.
James F. McClure, Jr.
United States District Judge